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September 2008 Monthly Report for MTC

To: Steve Heminger, Executive Director
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From: Tom Bulger, President
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Re: Monthly Report for September 2008

Date: October 3, 2008

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- **President Bush Signs Six Month Continuing Resolution**
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President Bush Signs Highway Trust Fund Fix

Following warnings by Secretary of Transportation Mary Peters that the Federal Highway Program would be reduced by more than 30% starting on October 1, 2008, and over objections by Senators Judd Gregg (R-NH), Tom Coburn (R-OK), and Jim DeMint (R-SC), Congress passed HR 6532, legislation which will transfer \$8 billion from the General Fund to the Highway Trust Fund, keeping the Highway Trust Fund solvent for the short-term. President Bush signed the bill into law on September 15th, 2008. Some fear remains that this will not be enough to keep highway funding flowing through the expiration of SAFETEA-LU next September 30th.

President Bush Signs Six Month Continuing Resolution

On September 30th, 2008, President Bush signed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act (HR 2638) into law. This legislation contains funding for the Department of Defense & Homeland Security for FY 2009. Additionally, it funds a continuing resolution through the end of March 2009. The CR includes language that maintains funding at the same level as FY 2008 over that period of time. The legislation also

includes roughly \$850 million in emergency appropriations for the Federal Highway Administration to unclog the backlog of projects in the Emergency Relief program, most of which are a result of recent hurricanes.

Close of 110th Congress

In what can only be described as typical Congressional fashion, House and Senate leaders are working to pass several major pieces of legislation before adjourning for the year. The hope was to complete work before the end of September and leave for the year, but that will not be the case. Congress is working to finalize the following pieces of legislation:

- \$700 billion financial institution bail-out legislation
- AMT patch and energy tax extenders
- Economic Stimulus Package

Below is a brief outline of where each of these pieces of legislation stands as of October 2nd, 2008. An addendum summarizing last minute changes will be sent to MTC upon the conclusion of this Congressional session.

\$700 Billion Financial Institution Bail-Out Legislation/ AMT Patch and Energy Tax Extenders

Congressional leaders, President Bush, and the two major party candidates for President are negotiating details of a potential bailout of financial institutions. On Monday, September 29th, the House rejected a bi-partisan proposal that sent the stock market tumbling. The House and Senate adjourned for the Rosh Hashanah holiday and on October 1st, the Senate approved legislation providing \$700 billion bailout. Additionally, the Senate added legislative provisions for creating an AMT patch and extension of popular energy tax extenders. The addition of the tax extenders may complicate matters further because the Senate tax provisions are not paid for and the House has insisted that the tax provisions should be paid for. House leaders are currently meeting and discussing plans to bring the legislation to the House floor for a vote. House leadership has insisted that it will not bring the bill to the floor unless it has the full support of House Republicans and can be assured that Republicans will do everything they can to make sure the legislation passes.

Economic Stimulus Package

The House and Senate had been working on an economic stimulus package the past two weeks; both include funding for transportation, but at different levels and different conditions. However, this legislation appears dead after the Senate failed to invoke cloture on the legislation. It is possible that this legislation will be brought back up during a lame duck session or early in the 111th Congress. Below is a brief summary of the legislation:

House – The upcoming House vote on the economic stimulus package will include:

Federal Highway Funding – \$12.8 billion, available until Sept 30, 2009, distributed using FY 2008 obligation limitation ratio. Federal share is 100%. Projects that can have contracts bid within 120 days are to be given preference, states have 180 days to obligate the funds before the funds are re-apportioned.

Federal Transit Funding – \$3.6 billion, available until Sept 30, 2009. \$3.24 billion in intended for section 5307 grants and \$360 million distributed through the section 5336 formula. Funds cannot be combined or commingled with other funds apportioned by the section 5336 formula. Federal share is 100%, in selecting projects; preference should be given to those projects that can be awarded bids within 120 days of enactment.

Transit Energy Assistance Grants – \$1.0 billion available until Sept 30, 2009. \$800 million intended for section 5307 recipients, \$200 million for section 5311 recipients. Funds cannot be combined or commingled with other funds apportioned by the section 5336 formula. Eligible activities include:

- Operating costs if it leads to a reduction of fares,
- Operating and capital costs of equipment and facilities to expand transit services,
- An activity that would be used to avoid increases in fares for public transportation,
- Acquisition of clean fuel or alternative fuel vehicle-related equipment or facilities, or
- Costs associated with establishing or expanding, commuter matching services to provide commuters with information and assistance about alternatives to single occupancy vehicle use.

Senate – S. 3604, the Senate economic stimulus package includes:

Federal Highway Funding – \$8.0 billion, to be apportioned to states via the formula used for Surface Transportation Program apportionments. The funding would require the standard state or local matching funds. DOT is directed to institute measures to ensure that the money is obligated within 90 days of apportionment and that any money not obligated within 90 days shall be withdrawn and redistributed by the Secretary "utilizing whatever method deemed appropriate to ensure that all funds provided under this heading shall be obligated promptly. DOT must take steps to ensure that the new money will "supplement and not supplant" existing highway money.

Federal Transit Funding – \$2 billion for Federal Transit Administration capital grants to transit agencies, to be apportioned via the formulas in section 5336 (a) to (c). The same 90 day obligation timeline, redistribution authority, and supplement-not-supplant language as the highway money, and the minimum apportionment for any transit agency is \$100 thousand. The legislation also contains language that the Secretary "shall make such funds available to pay for operating expenses to the extent that a transit authority demonstrates that such funds are necessary to continue current services or expand such services to meet increased ridership".

Lame Duck – On October 1st, Senator Reid (D-NV) said that the Senate would return to work following the November elections to complete work on a piece of omnibus federal land legislation. The House has repeatedly expressed opposition to a lame duck session; however, if the Senate stays open for business, it is unlikely that the House will close shop for the year. By leaving open the possibility of a lame duck session, there is a window of

opportunity for Congress to complete other work including an economic stimulus package or completion of a bailout bill if the House is unable to complete work on it this week.

APTA Authorization Committee Meeting

On September 12th, Tom Bulger attended a day-long authorization committee meeting that was mainly devoted to the handling of small to medium-sized bus properties with vehicles exceeding 150% of the FTA recommended age for replacement.

Originally, the APTA proposal would have recommended one-third of the bus-bus facility program for replacement vehicles that exceed the FTA age threshold by 150%. This proposal was rejected. Instead, APTA is now recommending a new set aside within the bus-bus facility program for replacement vehicles that exceed the FTA threshold by 150%. In addition, the APTA position for this set-aside suggests that the program be 50% discretionary and 50% formula based.

The APTA authorization committee deliberations took over two hours of discussion. Many other transit program recommendations were adopted by voice vote by the committee to be approved at the annual meeting in San Diego.

ITS America Authorization Meeting

On September 15th, Tom Bulger attended the ITS America authorization committee meeting held on Capitol Hill. The draft ITS America authorization recommendations included a performance based funding program. In addition, there are three distinct ITS program recommendations, 1) an ITS deployment, operation, and maintenance program, 2) an ITS demonstration program, and 3) an ITS research program. At the meeting, no final decisions were made. Instead, further input and refinement were requested.

Throughout the month we have been working with MTC's Deputy Executive Director, Ann Flemer and staff to develop input to the ITS America authorization process.

MTC Transportation Awards Ceremony

On October 22, 2008, MTC will hold its annual transportation awards ceremony. The late Congressman Tom Lantos (D-CA) will be the recipient of the John F. Foran legislator of the year award. We worked with MTC staff to arrange interviews with the Congressman's wife and associates. We have sent those interviews to MTC for their use at the awards ceremony.

Congress Clears Amtrak Authorization Bill

On October 1st, the U.S. Senate voted to pass H.R. 2095, a bill reauthorizing funding for intercity passenger rail programs (including Amtrak), federal railroad safety programs, and the Washington DC transit system. Since the House agreed to the same version of the bill last week, the Senate's action clears the measure for the White House. On October 2nd,

House Transportation & Infrastructure Committee Ranking Member, John Mica (R-FL), said that the White House was poised to sign HR 2095. The legislation authorizes \$13 billion for Amtrak and opens 11 corridors across the nation to private sector high-speed rail proposals. The 11 high-speed corridors DOT designated with Congress' authorization are:

- The Northeast Corridor
- The California Corridor
- The Empire Corridor (in New York)
- The Pacific Northwest Corridor
- The South Central Corridor (Texas-Oklahoma-Arkansas)
- The Gulf Coast Corridor
- The Chicago Hub Network
- The Florida Corridor
- The Keystone Corridor (Pennsylvania)
- The Northern New England Corridor
- The Southeast Corridor

Congressman John Mica said he is trying to convince President Bush to sign the bill quickly so that it will be the Bush administration overseeing requests for proposals from private companies for the development of high speed rail.

House Transportation & Infrastructure Committee Holds Hearing on Planning

On Thursday, September 18th, we attended a House Transportation & Infrastructure subcommittee hearing on the metropolitan planning process. During the hearing, Denver Mayor John Hickenlooper lauded praise upon MTC as an example of excellence. Below are some of the other highlights of that hearing:

In his opening remarks, Congressman Oberstar (D-MN), chair of the full committee, outlined three aspects of transportation that the next transportation bill should focus:

- Better plans for freight movement
- Prioritizing of regional and national plans
- Development of performance measures for policies

Full Committee Ranking Member, John Mica (R-FL), said the key element in planning is to look at the country as a whole and the individual states. He suggested that we need to also do this from a "bottom-up" perspective. In his opening remarks he outlined a few of the issues in the planning process:

- MPOs don't take the large mega-regions into consideration during the planning process
- There are issues between plans and allocation of funding
- Public-private partnerships and investments are not considered in the planning process
- The process for both building and planning is too slow

Subcommittee Ranking Member John Duncan (R-TN) echoed these concerns, and added that the next transportation bill could be the largest piece of legislation the next congress handles. He outlined the need to make plans that meet long-term goals of the individual

states and the nation. He mentioned the National Transportation Strategic Plan and emphasized that planning is critical to the entire transportation process.

The hearing was conducted using a modified format individuals testifying were asked to submit written testimony, but instead of delivering oral testimony, the committee dove into questions & answers. Those on the panel included:

- **James Ritzman**, Deputy Secretary for Planning, Pennsylvania, DOT
- **John Hickenlooper**, Mayor of Denver
- **Andrew Chesley**, Executive Director San Joaquin Council of Governments
- **Charles Howard**, Transp. Planning Director, Puget Sound Regional Council
- **Keith Selman**, Planning Director, City of Laredo, Texas
- **Neil Pederson**, representing the I-95 corridor coalition

Below are some of the highlights of the hearing:

Denver Mayor Hickenlooper said we need to create a model of cooperation between entities. We also need to look at the broader self-interests and work together. He also made the following points:

- The current plan doesn't recognize metropolitan-based solutions. We need to connect our resources to plan for surrounding areas as well.
- There is a disparity between transit and highway projects. They are currently scaled to make integrated plans more difficult to carry-out.
- We need to integrate land-use and economics etc.
- We need to take a collaborative approach to mitigating congestion.
- We also need to find a better mode for performances measures.

Neil Pederson (I-95 corridor coalition)

- We need to establish a better partnership between the state DOTs and the metropolitan areas.
- We need to revamp the process to look at areas of national interest that effect multiple states.
- Emphasized that the process of planning is as important as the actual outcome.
- He also emphasized the need for an increase in passenger rail usage.
- Also, we need to take a look at the fairness of public-private financing. Each case should be examined on an individual basis.

Mr. Selman (City of Laredo) – “Time money”, let's speed things up and have more cooperation.

Mr. Chesley (San Joaquin County Chairman) – said that we also need to concentrate on the relatively new issue of greenhouse gas emissions.

Congressman Oberstar asked to what extent do the state DOTs uphold and represent the different entities and the local metropolitan areas.

- Do we use planning processes to resolve land-use issues?
- 15% of interstate is in urban areas, but 50% of VMT is in urban areas. How can we better allocate money to help?

- We need to target money to the 68 high-density metropolitan areas without messing with senators, DOTs etc.

Mr. Howard (Puget Sound Regional Planning Council)

- We need to establish a working relationship and collaborate with other agencies.
- We need to combine land-use planning, economic development and transportation planning together. They are a good combination and work well as integrated work programs.
- “Transportation is land use” and the two need to be linked together.
- We also need to concentrate on fully funding projects. If the projects are not fully funded then the implementation is longer and is delayed.

Congresswoman Richardson asked how container fees work and was answered that they work as a potential funding source. This has been considered in the Seattle area but has not yet been put into effect.

Other topics discussed included:

- Benefits of incorporating freight movement into a transportation plan
- “Target Zero” objectives. Focus attention on the largest area of transportation injuries and disabilities.
- “Design Build” plan and “Design Build Operate” plan. The problem is that the risk is no longer absorbed by the government.
- We need to connect planning and funding together and find “mode-neutral” funding.
- We need to be more transparent and more creative with our planning. We need to give the people what they want and show the people exactly what we will deliver.
- There is an idea that we should move to VMT as a basis for taxation, and also concentrate on the newer issue of greenhouse gas emissions.
- We need a specific freight trust fund. We need to be allocating specific money to a freight trade. How do we fund these projects?
- This is the last hearing planned on the next transportation bill for this Congress. The committee is expected to resume hearings in January.

Senate Banking Committee Considers Federal Transportation Priorities

The Senate Committee on Banking, Housing and Urban Affairs held a hearing on September 9 to discuss “Strengthening the Ability of Public Transportation to Reduce Our Dependence on Foreign Oil.”

Although no specific legislation was discussed, the speakers testified in regard to the expiration of SAFETEA-LU, the principle piece of federal transportation legislation. The theme of the hearing was clear, as witnesses spoke of drastic changes that will be needed in the federal government’s approach to transportation.

William Millar, President of the American Public Transportation Association (APTA), highlighted the problem with current transit funding, which is tied to the Highway Trust Fund and the federal gasoline tax. Thus, at a time when “APTA’s member transit systems

are working hard to meet the increased demand” they are simultaneously experiencing an increase in cost of diesel fuel. Many systems are “forced to choose between raising passenger fares or cutting service to make up for the increased cost.” Millar said, “Transit needs to be part of the solution to, not the victim of, high petroleum prices.”

Robert Puentes of The Brookings Institution saw an opportunity to go even farther. He argued that, “While there is definitely a need for additional resources for the American public transit system, this must be about more than just money.” Transportation policy manifests itself over time. In the long term, he stated, “we need a systemic change in the way we think about, design, and implement transportation policies... [and we need] a clear vision for transportation that includes energy and climate change concerns.”

Other witnesses testifying were Andy Darrell, Vice President of the Environmental Defense Fund, Dorothy Dugger, General Manager of BART, Keith Parker, CEO of the Charlotte Area Transit System, and Dave Kilmer, GM of the Red Rose Transit Authority.

House Way & Means Committee Holds Hearing on Climate Change Legislation

On Thursday, September 18th, 2008, we attended a House Ways & Means committee hearing on ‘Policy Options to Prevent Climate Change’, the focus of the hearing was to discuss the benefits and drawbacks of initiating a ‘cap & trade’ program which would limit carbon emissions. The following testified at the hearing:

- Michael Bloomberg, Mayor, City of New York, New York
- Peter Orszag, Director, Congressional Budget Office
- Carol Browner, The Albright Group LLC
- Dallas Burtraw, Senior Fellow, Resources for the Future
- Robert Lighthizer, Partner and Head of the International Trade Department, Skadden, Arps, Slate, Meagher & Flom LLP
- Timothy J. Regan, Senior Vice President, Corning Incorporated
- Gary Clyde Hufbauer, Reginald Jones Senior Fellow, Peterson Institute for International Economics
- Frank Ackerman, Ph.D., Global Development and Environment Institute and Stockholm Environment Institute - US Center, Tufts University, Medford, Massachusetts
- Daniel Abbasi, Director, MissionPoint Capital Partners, Norwalk, Connecticut
- Jerome Ringo President, Apollo Alliance, San Francisco, California
- Peter Barnes, Senior Fellow, Tomales Bay Institute, Point Reyes Station, California
- Bill Millar, President, American Public Transportation Association
- David Kreutzer, Senior Policy Analyst, The Heritage Foundation

Generally speaking, each panelist, and almost every member of the committee recognized that global warming legislation should move forward in a bi-partisan way. Mayor Bloomberg highlighted the importance of this fact and expressed sincere hope that Congress would work in a bi-partisan fashion to pass legislation. In his remarks, Mayor Bloomberg suggested that a carbon-tax may be a simpler format to follow rather than cap & trade, however, he said that a cap & trade program was better than doing nothing. Also

during his comments, he recognized the importance of reducing carbon emissions, and reacted to criticism that such a move would harm the US economy and business. At one point in the exchange, he challenged any member of Congress to question his 'capitalist' credentials and admitted that while there may be short-term drawbacks to a carbon tax or cap & trade, the long term benefits for business, the environment, and the US economy are far greater.

Bill Millar, President of APTA, also testified and in his remarks he urged the committee to:

- Use revenues from federal climate change legislation to expand public transportation service across the nation,
- Increase the availability of fixed guideway transit - subway, light rail, commuter rail, streetcar and bus rapid transit - which is essential to creating energy efficient land-use patterns that reduce greenhouse gas emissions,
- Promote energy efficient technology in public transportation systems to increase the already substantial CO₂ savings from transit,
- Support local, regional and state efforts to increase mobility while reducing emissions from the transportation sector; and
- Equalize and Expand Tax Benefits for Public Transportation Riders.